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JOSEPH TRUBY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JOSEPH TRUBY

Plaintiff,

v.

DANIAL GEOZIPH dba VALLEY
MART DELI; HANAA
DANDOUCHE dba VALLEY MART
DELI

Defendants.

CASE NO. 24-1460
Civil Rights

**COMPLAINT FOR PRELIMINARY
AND PERMANENT INJUNCTIVE
RELIEF AND DAMAGES
REGARDING DENIAL OF SERVICE
DOG AND HANDLER TO EQUALLY
USE AND ENJOY PUBLIC
ACCOMMODATION:**

- 1. Violations of Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 *et seq.*)**
- 2. Violation of the California Unruh Act (Cal. Civil Code §§ 51 and 52)**
- 3. Violation of the California Disabled Persons Act (Cal. Civil Code § 54 *et seq.*)**

DEMAND FOR JURY TRIAL

Plaintiff JOSEPH TRUBY complains of Defendants DANIAL GEOZIPH dba VALLEY MART DELI; HANAA DANDOUCHE dba VALLEY MART DELI and alleges as follows:

1. **INTRODUCTION:** On or about April 28, 2024, Defendants denied disabled Plaintiff Joseph Truby denied services and admittance to their store and deli because he is a disabled individual who uses a task trained service dog to

1 ameliorate his disability. Despite the fact that Plaintiff informed Defendants that
2 his dog is a trained service dog, Defendants told Plaintiff to get out of the store and
3 claimed that his service dog was “a fake service dog.” Then, Defendants told
4 Plaintiff that if he tried to buy anything at the Valley Deli Mart they would “charge
5 him double.” This made Plaintiff feel like a second-class customer and unable to
6 equally enjoy the store like everyone else. Despite the vitriol that Defendants were
7 spewing at Plaintiff, Plaintiff’s service dog Boaz remained calm and performed his
8 tasks as necessary. At no time did Defendants inquire as to the tasks that Boaz is
9 trained to perform for Plaintiff’s disability.

10 2. Defendants refused to serve Plaintiff and allow him to shop at the
11 Valley Deli Mart located at 19980 Grand Street, Suite A, Lake Elsinore, California,
12 with his service dog. As a result, Plaintiff was denied service by Defendants
13 because of his disability because he needs his service dog to equally enjoy the
14 premises compared with non-disabled persons. Plaintiff was devastated by his
15 interactions with Defendants.

16 3. The Defendants’ decision to bar Plaintiff from entry because of his
17 service dog contravenes the ADA’s mandate to allow disabled persons equal
18 enjoyment of the facility and the Department of Justice’s technical assistance and
19 guidance on the subject of “Service Animals.” In relevant part, the guidance states:

- 20 • A person with a disability cannot be asked to remove his service
21 animal from the premises unless: (1) the dog is out of control and the
22 handler does not take effective action to control it or (2) the dog is not
23 housebroken. When there is a legitimate reason to ask that a service
24 animal be removed, staff must offer the person with the disability the
25 opportunity to obtain goods or services without the animal’s presence.

26 DOJ 2010 “Service Animal” guidance available at

27 <https://www.ada.gov/resources/service-animals-2010-requirements/> (emphasis
28 added).

1 4. On April 28, 2024, Defendants refused to allow Plaintiff to serve
2 Plaintiff due to the presence of his task trained service dog despite that his service
3 dog was under his control, task trained, and is housebroken. Further, Defendants
4 did not cite either of those as reasons for refusing service to Plaintiff. Defendants
5 simply told Plaintiff that they did not believe his service dog was not a “real”
6 service dog and threatened him if he did not leave. Defendants also did not offer
7 Plaintiff the opportunity to make his purchases without the presence of his service
8 dog.

9 5. Plaintiff lives very near the Valley Mart Deli, and he enjoys the
10 sandwiches patrons can purchase there. He intends to return to the Valley Mart
11 Deli to make purchases in the future but cannot do so until the policies of the store
12 are made accessible to disabled individuals who use service dogs, including
13 revision of its service dog policies and necessary employee training and/or re-
14 training. Plaintiff has brought this lawsuit to force Defendants to change their
15 discriminatory and illegal policies and compensate him for refusing to serve him
16 because he is a disabled person who needs the assistance of his qualified service
17 dog. Plaintiff seeks an injunction to protect the rights of all disabled persons,
18 including Plaintiff, when accompanied by a qualified service dog at the Valley Mart
19 Deli.

20 6. **JURISDICTION:** This Court has jurisdiction of this action pursuant
21 to 28 USC sections 1331 and 1343. This Court has jurisdiction over the claims
22 brought under California law pursuant to 28 U.S.C. § 1367.

23 7. **VENUE:** Venue is proper in this court pursuant to 28 USC
24 section 1391(b) and is proper because the real property which is the subject of this
25 action is located in this district and that Plaintiff’s causes of action arose in this
26 district.

27 8. **INTRADISTRICT:** This case should be assigned to the Eastern
28 Division because the real property which is the subject of this action is located in

1 this intradistrict and Plaintiff's causes of action arose in this intradistrict.

2 9. **PARTIES:** Plaintiff Joseph Truby is a "qualified" disabled person
3 who uses the assistance of a service dog to ameliorate his disability. Plaintiff
4 suffers from major depressive disorder, panic disorder, post-traumatic stress
5 disorder, and hypertension. Many of Plaintiff's disabilities stem from a long period
6 of incarceration during his youth. During his time in prison was exposed to
7 violence which has caused many of his disabling conditions. He suffers from
8 paranoia and hypervigilance which make it extremely difficult for him to be out in
9 public, particularly in crowded places. Plaintiff has a lot of difficulty waiting in
10 lines, such as at checkout counters at a grocery store, due to his fear that someone
11 could attack him from behind. When waiting in lines or being in crowded places,
12 Plaintiff experiences extreme anxiety, nausea and a significant rise in blood
13 pressure. Since Plaintiff suffers from heart disease and hypertension, significant
14 rises in blood pressure are dangerous to his health, and he must attempt to control
15 those symptoms quickly.

16 10. Plaintiff relies upon his service dog, a Mastiff/American Pitbull Terrier
17 mix named "Boaz" to assist him with certain tasks including alerting him to the
18 onset of panic and PTSD symptoms so that he can work to calm himself with
19 assistance from Boaz before his blood pressure rises to dangerous levels. Boaz is
20 also trained to create space for Plaintiff in crowds, notify Plaintiff when people
21 approach him from behind, provide a barrier between Plaintiff and the person
22 behind him when standing in lines, and administer deep pressure therapy. All of
23 these tasks Plaintiff has trained Boaz to do on command and are not behaviors that
24 Boaz has engaged in naturally or without training. Boaz was individually trained to
25 be a service dog by Plaintiff, and they have been working together for four years.
26 Additionally, Plaintiff continues to reinforce the training with Boaz daily. Plaintiff
27 is a qualified person with a disability as defined under federal and state law who is
28 substantially limited in the major life activities of interacting with other people,

1 regulating emotions (including issues with hyperarousal), and being out in public
2 places. 42 U.S.C. § 12102, 29 U.S.C. § 705(9)(B), and California Government
3 Code § 12926(1). A Photo depicting Boaz similar to as he appeared on the date of
4 the incident is below:



11. Defendants DANIAL GEOZIPH dba VALLEY MART DELI;
HANAA DANDOUCHE dba VALLEY MART DELI, are and were at all times
relevant to this Complaint the owners, operators, lessors and/or lessees of the
subject business located at 19980 Grand Street, Suite A, Lake Elsinore, California,
known as the Valley Mart Deli ("The Store").

12. The Store is a place of "public accommodation" and a "business
establishment" subject to the requirements *inter alia* of the categories of 42 U.S.C.
section 12181(7) of the Americans with Disabilities Act of 1990, of California Civil

1 Code sections 51 *et seq.*, and of California Civil Code sections 54 *et seq.*

2 13. **FACTUAL STATEMENT:** Plaintiff Joseph Truby has been working
3 with his service dog Boaz for approximately four years. Boaz is a
4 Mastiff/American Pitbull Terrier mix who was individually trained by Plaintiff to
5 be a service dog. Plaintiff has also trained and continues to train Boaz to serve his
6 specific needs throughout their relationship. Boaz is specifically trained to assist
7 Plaintiff by alerting him to the onset of panic and PTSD symptoms so that he can
8 work to calm himself with assistance from Boaz before his blood pressure rises to
9 dangerous levels. Boaz is also trained to create space for Plaintiff in crowds, notify
10 Plaintiff when people approach him from behind, provide a barrier between
11 Plaintiff and the person behind him when standing in lines, and administer deep
12 pressure therapy.

13 14. Plaintiff grew up on a farm with lots of animals including dogs. He
14 has significant experience training dogs throughout his life, and he felt confident in
15 training Boaz to perform tasks for him with the assistance of online references for
16 support. Plaintiff used positive reinforcement with both treats and praise to train
17 Boaz. For example, he began training Boaz to calm him during PTSD episodes by
18 bringing him close to him whenever he experienced symptoms of PTSD and
19 anxiety, so Boaz began to recognize the signs of stress in Plaintiff. Plaintiff then
20 began rewarding Boaz for staying with him and attentive to him until Plaintiff
21 calmed down. Once Boaz got used to staying with him while he was experiencing
22 symptoms, Plaintiff began using the command of snapping his fingers to get Boaz
23 to come to him when he was experiencing symptoms. Ultimately, Boaz learned to
24 recognize the onset of symptoms in Plaintiff without the snap. Now Boaz can alert
25 Plaintiff when he gets upset by pawing or nosing him.

26 15. Plaintiff trained Boaz to create a barrier for him in lines and alert him
27 to people coming up behind him with the assistance of his wife. They practiced this
28 task by having his wife approach Plaintiff from behind and rewarding Boaz when

1 he alerted Plaintiff of her presence with a nudge. Then Plaintiff trained Boaz to
2 stand back-to-back with him while his wife stood behind him to simulate standing
3 in a line, rewarding Boaz for performing the task. Now Boaz is able to do these
4 tasks automatically when out in public.

5 16. Boaz is a working dog; he is not a pet. Boaz wears a vest identifying
6 him as a service dog. Plaintiff and Boaz have trained extensively together, and they
7 supplement that training daily. Plaintiff takes Boaz everywhere with him in public.
8 It is important they stay together as much as possible because (a) Boaz provides
9 important services for Plaintiff; and (b) it is part of the training and bonding
10 requirement that they be together constantly to maintain their bond. With few
11 exceptions, where Plaintiff goes, Boaz goes.

12 17. On or about April 28, 2024, Plaintiff went to the Valley Mart Deli
13 located at 19980 Grand Avenue A, Lake Elsinore, California to purchase a
14 sandwich and a drink. Plaintiff was accompanied by his friend Chris and his
15 service dog Boaz on the trip. Plaintiff's friend Chris drove them to the Valley Mart
16 Deli in his vehicle.

17 18. When they arrived at the Valley Mart Deli, Plaintiff, Boaz and Chris
18 exited the vehicle and went inside. Boaz was wearing a vest which identified him
19 as a service dog. The vest had a handle on the back which Plaintiff was holding.

20 19. When Plaintiff and Boaz entered the Valley Mart Deli one of
21 Defendants' employees aggressively told Plaintiff that he could not enter the Store
22 with his dog. Plaintiff told Defendants' employee that his dog is a service dog and
23 is therefore allowed to accompany him into the Store.

24 20. Defendants' employee turned to another employee who was standing
25 nearby and derisively said "that's not a *real* service dog." Then Defendants'
26 employee turned to Plaintiff and told him to "get that dog out of here!" Plaintiff
27 reiterated that Boaz is his service dog and tried to explain that according to the
28 ADA he is entitled to have his service dog accompany him inside the store, but

1 Defendants' employee cut him off and yelled at him, "Are you going to challenge
2 me?"

3 21. Plaintiff was taken aback, but he again reiterated that Boaz is his
4 service dog and is allowed inside the store. Defendants' employee ordered Plaintiff
5 to leave the store. Then, Defendants' employee pointed to the other employee and
6 told Plaintiff that he had almost been bitten by a service dog earlier that day.
7 Plaintiff retorted that if the dog almost bit someone than it likely was not a service
8 dog, but stated clearly that his dog is a trained service dog.

9 22. Defendants' employee yelled at Plaintiff to get out of the store. When
10 Plaintiff hesitated, Defendants' employee then told Plaintiff that if he did not leave
11 immediately, he would charge Plaintiff double for any items he attempted to
12 purchase.

13 23. Plaintiff was shocked at Defendants' employees' reaction. Boaz was
14 well behaved the entire time they were inside the Valley Mart Deli. However, it
15 was clear to Plaintiff that Defendants' employees were not going to allow him to
16 make any purchases, so he and his friend left to find a different place to eat lunch.

17 24. Plaintiff wishes to return to patronize the Valley Mart Deli as it is very
18 close to his home, and he enjoys the sandwiches served there. However, Plaintiff
19 cannot return to the Valley Mart Deli until *after* Defendants have implemented
20 proper service animal policies and training of its staff. Plaintiff is deterred from
21 returning to the Store until these policies and training are in place.

22 **FIRST CAUSE OF ACTION:**
23 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**
24 **(42 USC §§ 12101 *et seq.*)**

25 25. Plaintiff repleads and incorporates by reference, as if fully set forth
26 again herein, the factual allegations contained in Paragraphs 1 through 24, above,
27 and incorporates them herein by reference as if separately repled hereafter.

28 26. In 1990 Congress passed the Americans with Disabilities Act after
finding that laws were needed to more fully protect "some 43 million Americans

1 with one or more physical or mental disabilities; that historically society has tended
2 to isolate and segregate individuals with disabilities;” that “such forms of
3 discrimination against individuals with disabilities continue to be a serious and
4 pervasive social problem”; that “the Nation’s proper goals regarding individuals
5 with disabilities are to assure equality of opportunity, full participation, independent
6 living and economic self-sufficiency for such individuals”; and that “the continuing
7 existence of unfair and unnecessary discrimination and prejudice denies people
8 with disabilities the opportunity to compete on an equal basis and to pursue those
9 opportunities for which our free society is justifiably famous.” 42 U.S.C. §
10 12101(a).

11 27. The ADA provides, “No individual shall be discriminated against on
12 the basis of disability in the full and equal enjoyment of the goods, services,
13 facilities, privileges, advantages, or accommodations of any place of public
14 accommodation by any person who owns, leases, or leases to, or operates a place of
15 public accommodation.” 42 USC § 12182.

16 28. Plaintiff is a qualified individual with a disability as defined in the
17 Rehabilitation Act and in the Americans with Disabilities Act of 1990.

18 29. Valley Mart Deli is a public accommodation within the meaning of
19 Title III of the ADA. 42 U.S.C. § 12181(7)(B) and (E).

20 30. The ADA prohibits, among other types of discrimination, “failure to
21 make reasonable modifications in policies, practices or procedures when such
22 modifications are necessary to afford such goods, services, facilities, privileges,
23 advantages or accommodations to individuals with disabilities.” 42 U.S.C. §
24 12182(b)(2)(A)(ii).

25 31. Under the “2010 Revised ADA Requirements: Service Animals,” as
26 published by the United States Department of Justice, and distributed by the DOJ’s
27 Civil Rights Division, Disability Rights Section, “Generally, title II and title III
28 entities must permit service animals to accompany people with disabilities in all

1 areas where members of the public are allowed to go.” ADA 2010 Revised
 2 Requirements, www.ada.gov/service-animals-2010.htm Further,

3 **Under the ADA, State and local governments, businesses, and**
 4 **nonprofit organizations that serve the public generally must allow**
 5 **service animals to accompany people with disabilities in all areas of**
 6 **the facility where the public is normally allowed to go.**

7 *Ibid.*, emphasis in original.

8 32. Defendants have a policy and practice of denying treatment and
 9 services to patrons with service animals at the Valley Mart Deli. This is contrary to
 10 the ADA. The Department of Justice issued guidance on the subject of “Service
 11 Animals.” In relevant part, the guidance states:

- 12 • A person with a disability cannot be asked to remove his service
 13 animal from the premises unless: (1) the dog is out of control and the
 14 handler does not take effective action to control it or (2) the dog is not
 15 housebroken. When there is a legitimate reason to ask that a service
 16 animal be removed, staff must offer the person with the disability the
 17 opportunity to obtain goods or services without the animal’s presence.

18 DOJ 2010 “Service Animal” guidance available at

19 <https://www.ada.gov/resources/service-animals-2010-requirements/> (emphasis
 20 added).

21 33. On information and belief, as of the date of Plaintiff’s most recent
 22 visits to Valley Mart Deli on or about April 28, 2024, Defendants continue to deny
 23 full and equal access to Plaintiff and to discriminate against Plaintiff on the basis of
 24 Plaintiff’s disabilities, thus wrongfully denying to Plaintiff the full and equal
 25 enjoyment of the goods, services, facilities, privileges, advantages and
 26 accommodations of Defendants’ premises, in violation of the ADA.

27 34. In passing the Americans with Disabilities Act of 1990 (hereinafter
 28 “ADA”), Congress stated as its purpose:

It is the purpose of this Act

- (1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;
- (2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;
- (3) to ensure that the Federal Government plays a central role in enforcing the standards established in this Act on behalf of individuals with disabilities; and
- (4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

42 USC § 12101(b).

35. As part of the ADA, Congress passed “Title III - Public Accommodations and Services Operated by Private Entities” (42 USC § 12181 *et seq.*). The subject property and facility are one of the “private entities” which are considered “public accommodations” for purposes of this title, which includes any “restaurant, bar, or other establishment serving food or drink” (42 USC § 12181(7)(B) as well as any “grocery store” (42 USC § 12181(7)(E)).

36. The ADA states that “No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases, or leases to, or operates a place of public accommodation.” 42 U.S.C. § 12182. The specific prohibitions against discrimination include, but are not limited to the following:

§ 12182(b)(1)(A)(ii): “Participation in Unequal Benefit. - It shall be discriminatory to afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.”

§ 12182(b)(2)(A)(ii): “a failure to make reasonable modifications in policies,

1 practices, or procedures when such modifications are necessary to afford such
 2 goods, services, facilities, privileges, advantages, or accommodations to individuals
 3 with disabilities...;”

4 § 12182(b)(2)(A)(iii): “a failure to take such steps as may be necessary to ensure
 5 that no individual with a disability is excluded, denied service, segregated, or
 6 otherwise treated differently than other individuals because of the absence of
 7 auxiliary aids and services...;”

8 § 12182(b)(2)(A)(iv): “a failure to remove architectural barriers, and
 9 communication barriers that are structural in nature, in existing facilities... where
 10 such removal is readily achievable;”

11 § 12182(b)(2)(A)(v): “where an entity can demonstrate that the removal of a barrier
 12 under clause (iv) is not readily achievable, a failure to make such goods, services,
 13 facilities, privileges, advantages, or accommodations available through alternative
 14 methods if such methods are readily achievable.”

15 The acts and omissions of Defendants set forth herein were in violation of
 16 Plaintiff’s rights under the ADA and the regulations promulgated thereunder, 28
 17 C.F.R. Part 36 *et seq.*

18 37. The removal of each of the policy barriers complained of by Plaintiff
 19 as hereinabove alleged, were at all times herein mentioned “readily achievable”
 20 under the standards of sections 12181 and 12182 of the ADA. As noted
 21 hereinabove, removal of each and every one of the policy barriers complained of
 22 herein were already required under California law. In the event that removal of any
 23 barrier is found to be “not readily achievable,” Defendants still violated the ADA,
 24 per section 12182(b)(2)(A)(v) by failing to provide all goods, services, privileges,
 25 advantages and accommodations through alternative methods that were “readily
 26 achievable.”

27 38. On information and belief, as of the dates of Plaintiff’s encounters at
 28 the premises and as of the filing of this Complaint, Defendants’ actions, policies,

1 and physical premises have denied and continue to deny full and equal access to
 2 Plaintiff and to other disabled persons who work with service dogs, which violates
 3 Plaintiff's right to full and equal access and which discriminates against Plaintiff on
 4 the basis of his disabilities, thus wrongfully denying to Plaintiff the full and equal
 5 enjoyment of the goods, services, facilities, privileges, advantages and
 6 accommodations, in violation of 42 U.S.C. sections 12182 and 12183 of the ADA.

7 39. Defendants' actions continue to deny Plaintiff's rights to full and equal
 8 access by deterring Plaintiff from patronizing the Valley Mart Deli and
 9 discriminated and continue to discriminate against Plaintiff on the basis of his
 10 disabilities, thus wrongfully denying to Plaintiff the full and equal enjoyment of
 11 Defendants' goods, services, facilities, privileges, advantages and accommodations,
 12 in violation of section 12182 of the ADA. 42 U.S.C. § 12182.

13 40. Pursuant to the Americans with Disabilities Act, 42 U.S.C. sections
 14 12188 *et seq.*, Plaintiff is entitled to the remedies and procedures set forth in
 15 section 204(a) of the Civil Rights Act of 1964, 42 USC 2000(a)-3(a), as Plaintiff is
 16 being subjected to discrimination on the basis of his disabilities in violation of
 17 sections 12182 and 12183. On information and belief, Defendants have continued
 18 to violate the law and deny the rights of Plaintiff and other disabled persons to "full
 19 and equal" access to this public accommodation since on or before Plaintiff's
 20 encounters. Pursuant to section 12188(a)(2)

21 [i]n cases of violations of § 12182(b)(2)(A)(iv) and § 12183(a)...
 22 injunctive relief shall include an order to alter facilities to make such
 23 facilities readily accessible to and usable by individuals with disabilities
 24 to the extent required by this title. Where appropriate, injunctive relief
 shall also include requiring the provision of an auxiliary aid or service,
 modification of a policy, or provision of alternative methods, to the
 extent required by this title.

25 41. Plaintiff seeks relief pursuant to remedies set forth in section 204(a) of
 26 the Civil Rights Act of 1964 (42 USC 2000(a)-3(a)), and pursuant to Federal
 27 Regulations adopted to implement the Americans with Disabilities Act of 1990.
 28 Plaintiff is a qualified disabled person for purposes of § 12188(a) of the ADA who

1 is being subjected to discrimination on the basis of disability in violation of Title III
 2 and who has reasonable grounds for believing he will be subjected to such
 3 discrimination each time that he may use the property and premises, or attempt to
 4 patronize Valley Mart Deli, in light of Defendants' policies barriers.

5 WHEREFORE, Plaintiff prays for relief as hereinafter stated.

6 **SECOND CAUSE OF ACTION:**
 7 **VIOLATION OF CALIFORNIA LAW INCLUDING: THE UNRUH**
 8 **ACT, CIVIL CODE SECTIONS 51 AND 52, AND THE AMERICANS**
 9 **WITH DISABILITIES ACT AS INCORPORATED**
 10 **BY CIVIL CODE SECTION 51(f)**

11 42. Plaintiff re-pleads and incorporates by reference, as if fully set forth
 12 again herein, the allegations contained in Paragraphs 1 through 41 of this
 13 Complaint and incorporates them herein as if separately re-pleaded.

14 43. At all times relevant to this action, the Unruh Civil Rights Act,
 15 California Civil Code § 51(b), provided that:

16 All persons within the jurisdiction of this state are free and equal, and
 17 no matter what their sex, race, color, religion, ancestry, national origin,
 18 disability, or medical condition are entitled to the full and equal
 19 accommodations, advantages, facilities, privileges, or services in all
 20 business establishments of every kind whatsoever.

21 44. California Civil Code section 52 provides that the discrimination by
 22 Defendants against Plaintiff on the basis of disability constitutes a violation of the
 23 general anti-discrimination provisions of sections 51 and 52.

24 45. Each of Defendants' discriminatory acts or omissions constitutes a
 25 separate and distinct violation of California Civil Code section 52, which provides
 26 that:

27 Whoever denies, aids or incites a denial, or makes any discrimination
 28 or distinction contrary to section 51, 51.5, or 51.6 is liable for each and
 every offense for the actual damages, and any amount that may be
 determined by a jury, or a court sitting without a jury, up to a maximum
 of three times the amount of actual damage but in no case less than four
 thousand dollars (\$4,000), and any attorney's fees that may be
 determined by the court in addition thereto, suffered by any person
 denied the rights provided in Section 51, 51.5, or 51.6.

46. Any violation of the Americans with Disabilities Act of 1990
 constitutes a violation of California Civil Code section 51(f), thus independently

1 justifying an award of damages and injunctive relief pursuant to California law,
 2 including Civil Code section 52. Per Civil Code section 51(f), “A violation of the
 3 right of any individual under the Americans with Disabilities Act of 1990 (Public
 4 Law 101-336) shall also constitute a violation of this section.”

5 47. The actions and omissions of Defendants as herein alleged constitute a
 6 denial of access to and use of the described public facilities by disabled persons
 7 who use service dogs within the meaning of California Civil Code sections 51 and
 8 52. As a proximate result of Defendants’ action and omissions, Defendants have
 9 discriminated against Plaintiff in violation of Civil Code sections 51 and 52, and are
 10 responsible for statutory and compensatory to Plaintiff, according to proof.

11 48. **FEES AND COSTS:** As a result of Defendants’ acts, omissions and
 12 conduct, Plaintiff has been required to incur attorney fees, litigation expenses and
 13 costs as provided by statute in order to enforce Plaintiff’s rights and to enforce
 14 provisions of law protecting access for disabled persons and prohibiting
 15 discrimination against disabled persons. Plaintiff therefore seeks recovery of all
 16 reasonable attorney fees, litigation expenses and costs pursuant to the provisions of
 17 California Civil Code sections 51 and 52. Additionally, Plaintiff’s lawsuit is
 18 intended to require that Defendants make their facilities and policies accessible to
 19 all disabled members of the public, justifying “public interest” attorney fees,
 20 litigation expenses and costs pursuant to the provisions of California Code of Civil
 21 Procedure section 1021.5 and other applicable law.

22 49. Plaintiff suffered damages as above-described as a result of
 23 Defendants’ violations.

24 WHEREFORE, Plaintiff prays for relief as hereinafter stated.

25 **THIRD CAUSE OF ACTION:**
 26 **DAMAGES AND INJUNCTIVE RELIEF**
 27 **FOR DENIAL OF FULL AND EQUAL ACCESS TO PUBLIC**
 28 **FACILITIES IN A PUBLIC ACCOMMODATION**
(Civil Code §§ 54 et seq.)

50. Plaintiff re-pleads and incorporates by reference, as if fully set forth

1 hereafter, the factual allegations contained in Paragraphs 1 through 49 of this
2 Complaint and all paragraphs of the third cause of action, as plead infra,
3 incorporates them herein as if separately re-pleaded.

4 51. Under the California Disabled Persons Act (CDPA), people with
5 disabilities are entitled to the “full and free use of . . . public buildings, . . . public
6 facilities, and other public places.” Civil Code § 54(a).

7 52. Civil Code section 54.1(a)(1) further guarantees the right of “full and
8 equal access” by persons with to “accommodations, advantages, facilities, medical
9 facilities, including hospitals, clinics, and physicians' offices...or other places to
10 which the general public is invited.” Civil Code § 54.1(c) also specifies that,
11 “individuals with a disability and persons authorized to train service dogs for
12 individuals with a disability, may take dogs, for the purpose of training them as
13 guide dogs, signal dogs, or service dogs in any of the places specified in
14 subdivisions (a) and (b).”

15 53. Civil Code section 54.2(a) specifically protects the right of “every
16 individual with a disability” “to be accompanied by a guide dog, signal dog, or
17 service dog, especially trained for the purpose, in any of the places specified in
18 Section 54.1.”

19 54. Civil Code section 54.3(b) makes liable “Any person or persons, firm
20 or corporation who denies or interferes with admittance to or enjoyment of the
21 public facilities as specified in Sections 54 and 54.1 or otherwise interferes with the
22 rights of an individual with a disability under Sections 54, 54.1 and 54.2.” This
23 section also specifies that, “[I]nterfere,’ for purposes of this section, includes, but
24 is not limited to, preventing or causing the prevention of a guide dog, signal dog, or
25 service dog from carrying out its functions in assisting a disabled person.”

26 55. Defendants are also in violation of California Penal Code section
27 365.5(b) which states:
28

1 No blind person, deaf person, or disabled person and his or her specially
2 trained guide dog, signal dog, or service dog shall be denied admittance
3 to accommodations, advantages, facilities, medical facilities, including
4 hospitals, clinics, and physicians' offices, telephone facilities, adoption
5 agencies, private schools, hotels, lodging places, places of public
6 accommodation, amusement or resort, and other places to which the
7 general public is invited within this state because of that guide dog,
8 signal dog, or service dog.

6 56. Valley Mart Deli is a public accommodation within the meaning of
7 the CDPA. On information and belief, Defendants are the owners, operators,
8 lessors or lessees of the public accommodation.

9 57. Defendants made the decision to knowingly and willfully exclude
10 Plaintiff and his service dog from their public accommodation and thereby deny
11 Plaintiff's his right of entrance into their place of business with his service dog. As
12 a result of that decision Plaintiff has faced the continuing discrimination of being
13 essentially barred from entering this public accommodation and place of business
14 based upon Defendants' exclusion of Plaintiff's legally protected use of his service
15 dog. Plaintiff has continued to suffer denial of access to these facilities, and he
16 faces the prospect of unpleasant and discriminatory treatment should he attempt to
17 return to these facilities. Plaintiff is unable to return to the Valley Mart Deli until
18 he receives the protection of this Court's injunctive relief, and he has continued to
19 suffer discrimination on a daily basis since April 28, 2024, all to his statutory
20 damages pursuant to California Civil Code §§ 54.1, 54.2, and 54.3 and California
21 Penal Code section 365.5.

22 58. **INJUNCTIVE RELIEF:** Plaintiff seeks injunctive relief to prohibit
23 the acts and omissions of Defendants as complained of herein which are continuing
24 on a day-to-day basis and which have the effect of wrongfully excluding Plaintiff
25 and other members of the public who are disabled and who require the assistance of
26 service animals from full and equal access to these public facilities. Such acts and
27 omissions are the cause of humiliation and mental and emotional suffering of
28 Plaintiff in that these actions continue to treat Plaintiff as an inferior and second-

1 class citizen and serve to discriminate against him on the sole basis that Plaintiff is
2 a person with disabilities who requires the assistance of a service animal.

3 59. Plaintiff wishes to return to patronize Valley Mart Deli but is deterred
4 from returning to use these facilities, because the lack of access and the significant
5 policy barriers will foreseeably cause him further difficulty, discomfort and
6 embarrassment, and Plaintiff is unable, so long as such acts and omissions of
7 Defendants continue, to achieve equal access to and use of these public facilities.
8 Therefore, Plaintiff cannot return to patronize the Valley Mart Deli and its facilities
9 and is deterred from further patronage until these facilities are made properly
10 accessible for disabled persons, including Plaintiff and other disabled individuals
11 who require the assistance of a service animal.

12 60. The acts of Defendants have proximately caused and will continue to
13 cause irreparable injury to Plaintiff if not enjoined by this Court. Plaintiff seeks
14 injunctive relief as to Defendants' inaccessible policies. As to the Defendants that
15 currently owns, operates, and/or leases (from or to) the subject premises, Plaintiff
16 seeks preliminary and permanent injunctive relief to enjoin and eliminate the
17 discriminatory practices that deny full and equal access for disabled persons and
18 those associated with them, and seeks an award of reasonable statutory attorney
19 fees, litigation expenses and costs.

20 61. Wherefore Plaintiff asks this Court to preliminarily and permanently
21 enjoin any continuing refusal by Defendants to grant full and equal access to
22 Plaintiff in the ways complained of and to require Defendants to comply forthwith
23 with the applicable statutory requirements relating to access for disabled persons.
24 Such injunctive relief is provided by California Civil Code sections 54.1, 54.2 and
25 55, and other laws. Plaintiff further requests that the Court award damages
26 pursuant to Civil Code section 54.3 and other law and attorney fees, litigation
27 expenses, and costs pursuant to Civil Code sections 54.3 and 55, Code of Civil
28 Procedure section 1021.5 and other law, all as hereinafter prayed for.

62. **DAMAGES:** As a result of the denial of full and equal access to the described facilities and due to the acts and omissions of Defendants in owning, operating, leasing, constructing, altering, and/or maintaining the subject facilities, Plaintiff has suffered a violation of his civil rights, including but not limited to rights under Civil Code sections 54 and 54.1, and has suffered difficulty, discomfort and embarrassment, and physical, mental and emotional personal injuries, all to his damages per Civil Code section 54.3, including general and statutory damages, as hereinafter stated. Defendants' actions and omissions to act constitute discrimination against Plaintiff on the basis that he was and is disabled and unable, because of the policy barriers created and/or maintained by the Defendants in violation of the subject laws, to use the public facilities on a full and equal basis as other persons. The violations have deterred Plaintiff from returning to attempt to patronize the Valley Mart Deli and will continue to cause him damages each day these barriers to access and policy barriers continue to be present.

63. Although it is not necessary for Plaintiff to prove wrongful intent in order to show a violation of California Civil Code sections 54 and 54.1 or of Title III of the ADA (*see Donald v. Café Royale*, 218 Cal. App. 3d 168 (1990)), Defendants' behavior was intentional. Defendants was aware and/or was made aware of its duties to refrain from establishing discriminatory policies against disabled persons, prior to the filing of this complaint. Defendants' establishment of their discriminatory policy to deny and restrict entry to persons with service dogs, and its implementation of such a discriminatory policy against Plaintiff, indicate actual and implied malice toward Plaintiff and conscious disregard for Plaintiff's rights and safety.

64. **FEES AND COSTS:** As a result of Defendants' acts, omissions, and conduct, Plaintiff has been required to incur attorney fees, litigation expenses, and costs as provided by statute, in order to enforce Plaintiff's rights and to enforce

1 provisions of the law protecting access for disabled persons and prohibiting
 2 discrimination against disabled persons. Plaintiff therefore seeks recovery of all
 3 reasonable attorney fees, litigation expenses, and costs, pursuant to the provisions
 4 of Civil Code sections 54.3 and 55. Additionally, Plaintiff's lawsuit is intended to
 5 require that Defendants make its facilities accessible to all disabled members of the
 6 public, justifying "public interest" attorney fees, litigation expenses and costs
 7 pursuant to the provisions of California Code of Civil Procedure section 1021.5 and
 8 other applicable law.

9 65. Plaintiff suffered damages as above described as a result of
 10 Defendants' violations. Damages are ongoing based on their deterrence from
 11 returning to the Valley Mart Deli.

12 WHEREFORE, Plaintiff prays for relief as hereinafter stated.

13 **PRAYER**

14 Plaintiff has no adequate remedy at law to redress the wrongs suffered as set
 15 forth in this Complaint. Plaintiff has suffered and will continue to suffer
 16 irreparable injury as a result of the unlawful acts, omissions, policies, and practices
 17 of the Defendants as alleged herein, unless Plaintiff is granted the relief he
 18 requests. Plaintiff and Defendants have an actual controversy and opposing legal
 19 positions as to Defendants' violations of the laws of the United States and the State
 20 of California. The need for relief is critical because the rights at issue are
 21 paramount under the laws of the United States and the State of California.

22 WHEREFORE, Plaintiff Joseph Truby prays for judgment and the following
 23 specific relief against Defendants:

- 24 1. An order enjoining Defendants, their agents, officials, employees, and
 25 all persons acting in concert with them:
 - 26 a. From continuing the unlawful acts, conditions, and practices described
 27 in this Complaint;
 - 28 b. To modify its policies and practices to accommodate service dog users

1 in conformity with federal and state law, and to advise Plaintiff that his
2 service dog will not be excluded should he desire to enter and
3 patronize the Valley Mart Deli;

4 c. That the Court issue preliminary and permanent injunction directing
5 Defendants as current owners, operators, lessors, and/or lessees
6 and/or its agents of the subject property and premises to modify the
7 above described property, premises, policies and related policies and
8 practices to provide full and equal access to all persons, including
9 persons with disabilities; and issue a preliminary and permanent
10 injunction pursuant to ADA section 12188(a) and state law directing
11 Defendants to provide facilities usable by Plaintiff and similarly
12 situated persons with disabilities and which provide full and equal
13 access, as required by law, and to maintain such accessible facilities
14 once they are provided and to train Defendants' employees and agents
15 in how to recognize disabled persons and accommodate their rights
16 and needs;

17 d. An order retaining jurisdiction of this case until Defendants have fully
18 complied with the orders of this Court, and there is a reasonable
19 assurance that Defendants will continue to comply in the future absent
20 continuing jurisdiction;

21 2. An award to Plaintiff of statutory, actual, general, and punitive
22 damages in amounts within the jurisdiction of the Court, all according to proof;

23 3. An award of civil penalty as against Defendants under California Penal
24 Code § 365.5(c);

25 4. An award to Plaintiff pursuant to 42 U.S.C. § 12205, 29 U.S.C. § 794a,
26 California Civil Code §§ 52 and 54.3, California Code of Civil Procedure § 1021.5,
27 and as otherwise permitted by law, of the costs of this suit and reasonable attorneys'
28 fees and litigation expenses;

- 1 5. An award of prejudgment interest pursuant to Civil Code § 3291;
- 2 6. Interest on monetary awards as permitted by law; and
- 3 7. Grant such other and further relief as this Court may deem just and
- 4 proper.

5 Date: July 12, 2024

REIN & CLEFTON

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/s/ Aaron M. Clefton
By AARON M. CLEFTON, Esq.
Attorneys for Plaintiff
JOSEPH TRUBY

JURY DEMAND

10 Plaintiff hereby demands a trial by jury for all claims for which a jury is
11 permitted.

12 Date: July 12, 2024

REIN & CLEFTON

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